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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/716,365 | 11/18/2003 | Tom Lalor | 1013-00029 | 6675 |
| 26753 | 7590 | 02/24/2005 | EXAMINER | |
| ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202 | | | VALENTI, ANDREA M | |
| | | ART UNIT | | PAPER NUMBER |
| | | 3643 | | |

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/716,365 | LALOR, TOM |
| | Examiner | Art Unit |
| | Andrea M. Valenti | 3643 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 November 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,4,6,7,10-18,20-26 and 29-43 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,4,6,7,10-18,20-26 and 29-43 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6, 7, 10-18, 20-26, 29-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,263,836 to Hollis in view U.S. Patent No. 6,273,027 to Watson et al.

Regarding Claims 1 and 30, Hollis teaches an automated animal return system and method for an animal comprising: a locator system (Hollis antenna #54 and containment wire Col. 5 line 34-35) for detecting a position of the animal relative to a reward zone (the reward zone is the desired "confined area" taught by Hollis last line of abstract); a command system (Hollis 5 line 54-55) for issuing a command to the animal when said locator system detects that said position of the animal is within a first boundary zone (Hollis first zone is the inner confinement region of the containment wire Col. 5 line 40-41) located beyond the reward zone, said command designed to encourage the animal to go to a reward zone (Hollis Col. 8 line 1-4); and a reward system for providing a reward to the animal when the locator system detects that the animal begins to return to said reward zone from the first boundary zone in response to the command (Hollis Col. 8 line 10-15 the reward is removal of the stimulus).

Hollis is silent on providing a food reward when the animal returns to the reward zone. However, Watson teaches that it is old and notoriously well-known to utilize automated positive reinforcement, i.e. food reward (Watson Col.3 line 49). Watson is cited because it teaches the concept of monitoring and detecting a particular animal behavior and utilizing positive reinforcement reward to encourage a particular behavior. Thus, it would have been obvious to one of ordinary skill in the art to modify the teachings of Hollis with the teachings of Watson to provide a food reward when a desired behavior has been detected for the advantage of the known effects positive reinforcement rewards have on modifying animal behavior (Watson Col. 3 line 4-6 and line 13-19, abstract line 6 any "detected desired behavior"). In this instance, the identified detected behavior that should receive the food reward of Watson is the animal returning to the reward/confinement zone taught by Hollis. Watson teaches that containing an animal in particular area is an acceptable detected behavior (Watson Col. 8 line 37-42).

Regarding Claims 4 and 31, Hollis as modified teaches the command is selected from a group of audible commands consisting of clicks, tones, whistles and verbal commands (Hollis Col. 8 line 1-4).

Regarding Claims 6 and 32, Hollis as modified teaches the locator system is selected from a group of locator systems consisting of GPS based locators, RF based locators, ultrasonic based locators, magnetic direction sensor based locators, accelerometer based locators, manual gate systems, electronic gate systems and combinations thereof (Hollis Col. 5 line 35-38).

Regarding Claims 7 and 33, Hollis as modified teaches the reward is an audible reward selected from the group of audible rewards consisting of a click, a tone, a whistle and a verbal phrase (Hollis Col. 4 line 53 reward commands and Watson Col. 3 line 49-50).

Regarding Claims 10, 15, 34 and 38, Hollis as modified teaches the audible reward or command is broadcast from a speaker located in or near said reward zone (Watson #28).

Regarding Claims 11, 16, 35 and 39, Hollis as modified teaches the reward is broadcast from a speaker mounted on a collar attached to the animal (Hollis #10, Col. 4 line 50-56).

Regarding Claims 12 and 17, Hollis as modified teaches the reward is prerecorded (Hollis #51 and Col. 5 line 60).

Regarding Claims 13 and 36, Hollis as modified teaches including a reward limiter to limit the provision of said food to selected times when the animal returns from said first boundary zone to said reward zone in response to said command (Watson abstract line 5-12).

Regarding Claims 14 and 37, Hollis as modified teaches selected times are determined based on a fraction of a total number of times the animal has returned from said first boundary zone to said reward zone in response to said command (Watson Col. 4 line 19-27).

Regarding Claims 18 and 40, Hollis as modified teaches a discomfort system for applying a discomfort to the animal when the locator system detects that the animal has

moved beyond the first boundary zone into a second boundary zone (the first boundary taught by Hollis is nearing the wire, the second boundary is actually crossing the wire, thus Hollis Col. 5 line 41, 42, and 56), or when the locator system detects that the animal has not moved toward the reward zone after a predetermined amount of time following the issuance of the command.

Regarding Claims 20 and 41, Hollis as modified teaches the discomfort is selected from a group of discomforts consisting of an electric stimulus administered by electrodes attached to a collar secured to the animal, an audible tone broadcast from a speaker attached to said collar secured to the animal or from a central location, and an offensive spray issued from a spray system attached to said collar secured to the animal, or combinations of the above-listed discomforts (Hollis Col. 5 line 55-56).

Regarding Claims 21 and 42, Hollis as modified inherently teaches the intensity of said discomfort is variable (Hollis Col. 5 line 59-58).

Regarding Claims 22 and 43, Hollis as modified teaches the discomfort is discontinued after a predetermined amount of time or following a predetermined number of applications (Hollis Col. 5 line 59-58 and Col. 4 line 63).

Regarding Claims 23 and 24, Hollis as modified teaches the return system is operable in a training mode to enable a trainer to train the animal to respond to said command, said training mode including a manual command mode to enable said trainer to manually cause said initiating signal to be issued and a manual reward mode to enable said trainer to manually cause said reward to be provided to the animal (Hollis #14 and Watson Col. 11 line 20).

Regarding Claim 26, Hollis as modified inherently teaches the return system is portable for operation at a remote location (Hollis Fig. 1 and 2).

Regarding Claims 29, Hollis as modified teaches the reward being a combination of both food and audible (Watson et al teaches an animal behavioral modification device utilizing positive reinforcement with both a food and audible reward for desired behavioral detection, Watson #28 and Col. 3 line 13-15 and 48-50; Col. 4 line 44; Col. 5 line 13-15; Col. 8 line 38-41) and (Hollis teaches an audible reward when the locator detects the animal beginning to return to a neutral zone Col. 8 line 5-10 and Col. 4 line 53).

Response to Arguments

Applicant's arguments with respect to claim 1, 4, 6, 7, 10-18, 20-25, 29-43 have been considered but are moot in view of the new ground(s) of rejection.

The amended claims and arguments filed 15 November 2004 appeared with the wrong application serial number in the top left hand corner of the page. They contained application serial number 10/116,942 but this number should be 10/716,365.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Examiner
Art Unit 3643

16 February 2005



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600